

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

LA'SHANE DONYLE SCOTT, a/k/a
La'Shane Saadig,

Plaintiff,

vs.

DR. MARY CARPENTER, CHIEF MEDICAL
OFFICIAL, INDIVIDUAL AND OFFICIAL
CAPACITY; WARDEN DAN SULLIVAN,
CHIEF WARDEN OF SOUTH DAKOTA
STATE PRISONS, INDIVIDUAL AND
OFFICIAL CAPACITY; NURSE LANA,
CORRECTIONAL NURSE STAFF,
INDIVIDUAL AND OFFICIAL CAPACITY;
RYAN VANDERAA, UNIT MANAGER,
WEST HALL, INDIVIDUAL AND OFFICIAL
CAPACITY; JASON MILLS, UNIT
COORDINATOR, WEST HALL,
INDIVIDUAL AND OFFICIAL CAPACITY;
SGT. SWAGGERT, OFFICER IN CHARGE,
INDIVIDUAL AND OFFICIAL CAPACITY;
OFFICER GANGLER, CORRECTIONAL
OFFICER, INDIVIDUAL AND OFFICIAL
CAPACITY; KAYLA TINKER, HEALTH
SERVICES OFFICIAL, INDIVIDUAL AND
OFFICIAL CAPACITY; CHARGE NURSE
STEPHANIE, CHARGE NURSE HEALTH
SERVICE, INDIVIDUAL AND OFFICIAL
CAPACITY; UNKNOWN OFFICERS,
CORRECTIONAL OFFICERS THAT
WORKED IN THE WEST HALL UNIT, THE
"SHU" FROM 10/26/2022 TO 10/30/2022,
INDIVIDUAL AND OFFICIAL CAPACITY;
UNKNOWN HEALTH SERVICES NURSING
STAFF, CORRECTIONAL NURSING STAFF
THAT WORKED IN THE SEGREGATED
HOUSING UNIT FROM 10/26/2022 TO
10/30/2022, INDIVIDUAL AND OFFICIAL
CAPACITY; KELLIE WASKO, SECRETARY

4:23-CV-04020-RAL

ORDER GRANTING PLAINTIFF'S
MOTION TO PROCEED IN DISTRICT
COURT WITHOUT PREPAYING FEES OR
COSTS AND REQUIRING PLAINTIFF TO
PAY AN INTIAL PARTIAL FILING FEE

OF THE DEPARTMENT OF CORRECTIONS, INDIVIDUAL AND OFFICIAL CAPACITY,	
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Defendants.	
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Plaintiff La'Shane Donyale Scott filed a pro se lawsuit under 42 U.S.C. § 1983. Doc. 1. Scott is an inmate at the South Dakota State Penitentiary. Id. at 2. He filed a motion to proceed in district court without prepaying fees or costs and provided the Court with his prisoner trust account report. Docs. 2, 7.

Under the Prison Litigation Reform Act, a prisoner who “brings a civil action or files an appeal in forma pauperis . . . shall be required to pay the full amount of a filing fee.” 28 U.S.C. § 1915(b)(1). The Court may, however, accept partial payment of the initial filing fee where appropriate. Therefore, “[w]hen an inmate seeks pauper status, the only issue is whether the inmate pays the entire fee at the initiation of the proceeding or over a period of time under an installment plan.” Henderson v. Norris, 129 F.3d 481, 483 (8th Cir. 1997) (per curiam) (alteration in original) (quoting McGore v. Wrigglesworth, 114 F.3d 601, 604 (6th Cir. 1997)).

The initial partial filing fee that accompanies an installment plan is calculated according to 28 U.S.C. § 1915(b)(1), which requires a payment of 20 percent of the greater of:

- (A) the average monthly deposits to the prisoner's account; or
- (B) the average monthly balance in the prisoner's account for the 6-month period immediately preceding the filing of the complaint or notice of appeal.

Scott reports an average monthly balance for the past six months in his prisoner trust account of \$178.69 and an average monthly deposit of \$181.08. Doc. 7 at 1. Based on this information, the Court grants Scott leave to proceed in forma pauperis, but he must pay an initial partial filing fee of \$36.22 (20 percent of his average monthly deposit). Scott must pay the initial partial filing fee

of **\$36.22 by March 21, 2023**. His failure to pay the filing fee by March 21, 2023, will result in the dismissal without prejudice of his complaint.

Accordingly, it is

ORDERED that Scott's motion to proceed in district court without prepaying fees or costs, Doc. 2, is granted. Scott will make a payment of **\$36.22 by March 21, 2023**, made payable to the Clerk, U.S. District Court. If Scott does not pay the initial partial filing fee by March 21, 2023, his complaint will be dismissed without prejudice. The Court will conduct a 28 U.S.C. § 1915A screening after Scott pays his initial partial filing fee. It is finally

ORDERED that the institution having custody of Scott is directed that whenever the amount in Scott's trust account, exclusive of funds available to him in his frozen account, exceeds \$10.00, monthly payments that equal 20 percent of the funds credited the preceding month to Scott's trust account shall be forwarded to the U.S. District Court Clerk's Office under 28 U.S.C. § 1915(b)(1), until the \$350 filing fee is paid in full.

DATED February 21st, 2023.

BY THE COURT:



ROBERTO A. LANGE
CHIEF JUDGE